

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

HECTOR MARQUEZ,

Petitioner,

vs.

MAGGIE BRADSHAW,

Respondent.

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CASE NO. 1:09-CV-01620

OPINION & ORDER
[Resolving Doc. No. [1](#)]

JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

On July 15, 2009, Petitioner Hector Marquez filed a petition for a writ of habeas corpus under [28 U.S.C. § 2254](#). [[Doc. 1](#).] On December 14, 2009, Respondent Maggie Bradshaw filed a Return of Writ. [[Doc. 11](#).] The matter was referred to Magistrate Judge George J. Limbert pursuant to Local Rule 72.2. On March 4, 2011, Magistrate Judge Limbert issued a Report and Recommendation recommending that the Court dismiss the petition, in its entirety, with prejudice. [[Doc. 12](#).]

The Federal Magistrates Act requires a district court to conduct a *de novo* review only of those portions of a Report and Recommendation to which the parties have made an objection. [28 U.S.C. § 636\(b\)\(1\)\(C\)](#). Parties must file any objections to a Report and Recommendation within fourteen days of service. *Id.*; [Fed. R. Civ. P. 72\(b\)\(2\)](#). Failure to object within this time waives a party's right to appeal the district court's judgment. [Thomas v. Arn, 474 U.S. 140, 145 \(1985\)](#);

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United States v. Walters, 638 F.2d 947, 949-50 (6th Cir. 1981). Absent objection, a district court may adopt the magistrate judge's report without review. *See Thomas*, 474 U.S. at 149.

In this case, Petitioner Marquez has had ample time to object to the Magistrate Judge's recommendation. Moreover, having conducted its own review of the record and the parties' briefs, the Court agrees with the recommendation of Magistrate Judge Limbert that the petition should be dismissed. The Petitioner's first argument asserts a violation of state law not cognizable in federal habeas corpus review; grounds two, four, five, and six fail on the merits because the state appeals court did not unreasonably apply federal law in determining that Petitioner did not receive ineffective assistance of counsel and did not require an interpreter to comprehend the proceedings; and ground three fails on the merits because the record does not substantiate that Petitioner was sufficiently incompetent during sentencing or otherwise. [Doc. 12.]

Accordingly, the Court **ADOPTS** in whole Magistrate Judge Limbert's Report and Recommendation and **DENIES** Petitioner Marquez's petition for a writ of habeas corpus. Further, the Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith, and no basis exists upon which to issue a certificate of appealability. 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).

IT IS SO ORDERED.

Dated: April 12, 2011

s/ *James S. Gwin*

JAMES S. GWIN

UNITED STATES DISTRICT JUDGE